

FREEDOM OF INFORMATION (SCOTLAND) ACT 2002

EXPLANATORY NOTES

THE ACT – SECTION BY SECTION

Part 4 – Enforcement

Section 49 – Commissioner’s decision

121. This section sets out the Commissioner’s obligations in relation to an application made in accordance with section 47(1), providing this is not excluded by section 48. The Commissioner is not obliged to make a decision if he or she is of the opinion that the request is frivolous or vexatious, or has been withdrawn or abandoned. However, the Commissioner is still obliged to provide notification with reasons.
122. In any other case the Commissioner must invite comments from the authority and reach a decision within four months (or such other period as is reasonable in the circumstances) of receiving the application. The Commissioner may also mediate a settlement between the applicant and the authority.
123. Where the Commissioner finds that an authority has not dealt with a request in accordance with Part 1 of this Act, such a decision notice must contain details of the failure, the remedy and the time within which such action must be taken. Such timescales must not expire before the end of the period within which an authority may appeal to the Court of Session under section 56.